

U.S. SENATE, COMMITTEE ON THE JUDICIARY

Executive Nominations Hearing

TUESDAY, JANUARY 22, 2007

**Questions for the Record from
SENATOR CHARLES E. GRASSLEY**

for

**Gregory G. Katsas, of Massachusetts, to be
Assistant Attorney General, Civil Division, U.S. Department of Justice**

During my years in the Senate, I've been committed to combating fraud, waste, and abuse in the government and government programs. I believe that the False Claims Act has proved to be the most effective tool in the effort to prevent fraud and abuse against the government and has enabled the government to recover over \$20 billion since 1986. The *qui tam* provisions of the False Claims Act encourage citizens, who have knowledge and evidence of false claims of fraud, to report the illegal activity. These patriotic whistleblowers are the federal government's greatest allies in the fight against fraud.

As the Senate sponsor of the 1986 Amendments to the False Claims Act, I'm one of the Act's biggest supporters and defenders. Mr. Katsas, it is my hope that as the Assistant Attorney General for the Civil Division, you'll also vigorously support the False Claims Act and its *qui tam* provisions.

- 1. As Assistant Attorney General for the Civil Division, will you vigorously enforce the False Claims Act?**

Yes.

- 2. Do you have any question as to the constitutionality of the FCA and the *qui tam* provisions?**

The substantive provisions of the FCA are unquestionably constitutional, and the courts unanimously have rejected constitutional challenges to the *qui tam* provisions of the FCA. Given those strong precedents, I would have no difficulty vigorously defending the *qui tam* provisions against any further constitutional challenges.

- 3. Can you inform the Judiciary Committee of your experience with the False Claims Act?**

Between June 2001 and August 2006, I served as the Deputy Assistant Attorney General responsible for the Appellate Staff of the Civil Division. In that capacity, I supervised dozens of appeals taken or defended by the Civil Division in FCA cases, and I personally submitted dozens of appeal, *en banc*, or *certiorari* recommendations to the Solicitor General in FCA cases. Since August 2006, I have provided more general

supervision of the Civil Division, including all of its FCA litigation, from within the Office of the Associate Attorney General. Finally, prior to June 2001, I was a supporting attorney in approximately three FCA appeals handled by my law firm at that time.

- 4. Will you oppose efforts by industry groups, including the health care industry, to weaken the False Claims Act and the *qui tam* provisions of the FCA?**

Yes.

- 5. Do you anticipate any decrease in the budget for the Commercial Litigation branch which is responsible for false claims prosecutions? In previous years, the Department has specifically requested litigation support funds, including funding for accounting experts, for the false claims cases pending. Are you committed to securing the funding necessary to successfully litigate FCA cases?**

I do not anticipate any decrease in the budget for the Commercial Litigation Branch of the Civil Division. If confirmed as Assistant Attorney General, I would use my best efforts to secure funding necessary to litigate FCA cases successfully.

- 6. Will you ensure that Civil Division attorneys aggressively enforce the False Claims Act, and will you work with the U.S. Attorneys to ensure their vigorous support and enforcement of the False Claims Act and the *qui tam* provisions of the FCA?**

Yes. On the specific question of coordination between the Civil Division and U.S. Attorney Offices, I believe that the Civil Division can and should use its unparalleled FCA expertise to support litigation handled in the field by USAOs.

- 7. Will you agree to promote a close working relationship between *qui tam* relators' counsel and the Justice Department for the purpose of establishing the public/private relationship envisioned when the FCA was signed into law by President Reagan?**

Yes. If confirmed, I would continue present Civil Division policy of working as closely as possible with *qui tam* relators and their counsel.